

REMARKS

I. Claim Rejections – 35 U.S.C. §112

Claim 2 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention. Claim 2 has been cancelled and, therefore, withdrawal of the §112 rejection is requested.

II. Nonstatutory Double Patenting

Claims 1 and 2 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of US 6,369,085. Separately and concurrently submitted herewith is a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) to overcome the rejection.

III. Claim Amendments

With the submission of the Terminal Disclaimer, claim 1 is allowable. New claims 20 and 21 are directly or indirectly dependent on claim 1. Support for claim 20 is found at [0006] of the published patent application No. US 2005/0075369. Support for claim 21 is provided by original claim 4 and [0017] of the published patent application No. US 2005/0075369.

Claim 20 contains a reference to claim 1 and specifies a further limitation of the claimed subject matter (35 U.S.C. §112, ¶4). Specifically, according to claim 20, the compound of claim 1 is represented by the Figure 1.

Claim 21 is directed to a process for making the compound of claim 1 or 20. Since claim 1 is allowable, Applicant is entitled to process claims that depend from or otherwise require all the limitations of the allowable product claim.

No new matter has been introduced by any of the claim amendments.

CONCLUSION

Applicants submit that claims 1, 20 and 21 are in condition for allowance, which action is earnestly solicited. The Examiner is invited to call the undersigned Attorney if necessary to expedite allowance.

The Commissioner is hereby authorized to charge Deposit Account No. 23-1703 in the event that any fee is required in connection with this communication.

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Respectfully submitted,

/John M. Genova/

Reg. No. 32,224

Customer No. 007470

Direct Dial: (212) 819-8832